

**WHARTON COUNTY, TEXAS
LOCAL RULES OF PRACTICE
OF
329TH AND 23RD JUDICIAL DISTRICT COURT**

RULE 1. TIME STANDARDS FOR THE DISPOSITION OF CASES

1.1 The following standards will apply to ensure the final disposition of cases in a timely manner:

1.1.1 **CRIMINAL CASES** - As provided by Article 32A.01, Code of Criminal Procedure.

1.1.2 **CIVIL CASES OTHER THAN FAMILY LAW**
 Civil Jury Cases within 18 months from appearance date.
 Civil Non-Jury Cases within 12 months from appearance date.

1.1.3 **FAMILY LAW CASES**
 Contested Family Law Cases within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

Uncontested Family Law Cases within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

1.1.4 **JUVENILE CASES**
 In addition to the requirements of Title 3, Texas Family Code:

1.1.4.1 **Detention Hearings** on the next business day following admission to any detention facility.

1.1.4.2 **Adjudicatory or Transfer (Waiver) Hearings**
 Concerning a juvenile in a detention facility, not later than 10 working days following admission to such a facility, except for good cause shown of record.
 Concerning a juvenile not in a detention facility, not later than 30 days following the filing of the petition, except for good cause shown of record.

1.1.4.3 **Disposition Hearings** not later than 15 days following the adjudicatory hearing. The Court may grant additional time in exceptional cases that require more complex evaluation.

1.1.4.4 Nothing herein shall prevent a judge from recessing a juvenile hearing at any state of the proceeding where the parties are agreeable or when, in the opinion of the judge presiding in the case, the best interest of the child and of society shall be served.

1.1.5 **COMPLEX CASES**

It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

1.1.6 Failure to adhere to these standards shall be grounds to support a motion to dismiss for want of prosecution (DWOP).

RULE 2. INFORMATION REGARDING ACTIVITY OF THE COURTS

2.1 The Local Administrative District Judge shall provide the following information as to the activity of the Courts within the County by and through the District Clerk, including the number of cases filed, disposed, and pending in the County by type of case in accord with the definitions and requirements promulgated by the Office of Court Administration.

RULE 3. COURT DOCKET

3.1 There is one general docket for the 23rd and 329th District Court; and, cases filed in Wharton County shall be styled "*In the District Court of Wharton County, Texas*" as provided in Section 24.124 of the Texas Government Code.

3.1.1 All odd numbered cases shall be assigned to the 23rd Judicial District Court.

3.1.2 All even numbered cases shall be assigned to the 329th Judicial District Court.

3.1.3 The Judges of the 23rd and 329th District Court may hear and dispose of any matter on the general docket of the Courts, both civil and criminal, without a transfer of the matter. Accordingly, subject to the availability of the Court in which the matter is to be heard and the consent of the Judge to whose Court the matter is assigned, any matter may be heard in either

Court. Such requests should be addressed to the Court Coordinator to which the matter is assigned.

3.2 SETTINGS IN THE 329TH JUDICIAL DISTRICT COURT

- 3.2.1 **Trial Settings** - A case shall be placed on the “Active Trial Docket” only after the Court receives written request from a party or his attorney of record, requesting that the case be set for trial. Such request shall certify:
- 3.2.1.1 Whether the case is jury or non-jury.
 - 3.2.1.2 The approximate number of days required to try the case.
 - 3.2.1.3 The names and address of all parties or their attorneys of record.
 - 3.2.1.4 That a copy of the request has been served on all other parties or their attorneys of record at the addresses indicated.
 - 3.2.1.5 That the pleadings are in order.
 - 3.2.1.6 That no attorney of record on whom a copy of the request is served has withdrawn from the case.
 - 3.2.1.7 That all written and filed agreements to take depositions and to produce a party for physical examination have been accomplished.
 - 3.2.1.8 That all necessary ad litem appointments have been made.
 - 3.2.1.9 That all matters preliminary to trial have been accomplished.
 - 3.2.1.10 That the case is ready for trial.
- 3.2.2 The Court shall maintain two separate active trial dockets, one for jury cases and one for non-jury cases. Jury dockets will be for one week of trial (Monday-Friday). Any case needing more time will require a special setting.
- 3.2.3 The setting priority for cases on an active trial docket shall be the order in which setting requests are received by the Court. The case shall maintain its setting priority relative to other cases on the active trial docket until it is either tried or removed from the active trial docket by the granting of a continuance. (As a means of discouraging premature setting requests solely to establish a high docket priority, setting priority will be lost if a continuance is granted at docket call.)
- 3.2.4 A party to a case is entitled to 45 days notice after service of a copy of a setting request before jury docket call for the case. The Court, in its discretion, shall determine how many cases with the highest setting priority shall be placed on any particular call of the docket, and the party

obtaining the setting shall notify all parties or their attorneys of record in writing as to the date and time of the setting.

- 3.2.5 Prior to jury docket call, the Court shall hear all unresolved pre-trial motions, conduct a pre-trial conference pursuant to Rule 166, and shall assign a trial date for the case unless a continuance is granted. If a trial date is assigned at docket call, no other amended pleadings, motions, or other pleadings may be filed prior to trial except by special leave of the Court, and the case may not be passed by agreement of the parties.
- 3.2.6 In general, one criminal jury case per month and one civil jury case per month will be tried; however, more cases will be tried when the Court feels there is sufficient time. Therefore, the “ready” cases are, in most instances, determined prior to the time for a formal calling of the docket for the jury day, thus rendering such call unnecessary. After the “ready” case has started to trial, the other cases will be passed for another setting and the attorneys excused.

3.3 MOTIONS AND SHORT HEARINGS - 329TH JUDICIAL DISTRICT COURT

It is the policy of the 329th Judicial District Court to hold regularly scheduled docket calls. A party or his attorney of record who wishes to schedule a motion or other short hearing should 1.) preview the court’s calendar at www.329th.com, and 2.) communicate with the Court Coordinator by telephone, or by email, to determine an acceptable date and time for the hearing. ***The Court should be informed as to whether the matter is contested and the estimated amount of time required for the hearing.*** Nothing other than an informal confirmation by the Court or the Court’s Coordinator is required in order to have the Court reserve that time for the hearing, however, a written confirmation of the setting is preferred. It shall be the duty of the party scheduling the hearing to serve or cause to be served the proper notice of the hearing within the time limits and in the manner prescribed by the Texas Rules of Civil Procedure or other applicable rule of law.

All matters requiring an evidentiary hearing lasting longer than ½ day shall be referred to mediation before a setting may be obtained.

3.4 SETTINGS IN THE 23RD JUDICIAL DISTRICT COURT

- 3.4.1 **Trial Settings** - Requests for trial settings, both jury and non-jury, shall be in writing and in the form prescribed by the Court. The setting request form is available from the Court Coordinator. Setting requests shall be for

a specific one-week docket, as identified on the Court's schedule for the current calendar year. The Court may assign cases on the trial docket in the order which best promotes the administration of justice. Preferential settings are discouraged, and will be granted only in unusual circumstances.

- 3.4.2 **Hearings** - Hearings on motions and other ancillary matters shall be set by mail, e-mail, telephonic, or telecopier request to the Court Coordinator. Any party obtaining a setting from the Court Coordinator must immediately notify all other parties (except for ex-parte matters).

- 3.5 **CORRESPONDENCE** relating to settings shall be addressed to:

Coordinator-329th District Court
Wharton County Courthouse
100 S. Fulton, Suite 200
Wharton, Texas 77488
(979) 532-1514
cassie@329th.com

Coordinator-23rd District Court
Wharton County Courthouse
Matagorda County Courthouse
dc.23d@outlook.com
(979) 549-8625

RULE 4. DOMESTIC RELATIONS CASES

- 4.1 **REPORTS PURSUANT TO A DIVORCE** - Upon requesting the judge to sign a final decree in a divorce case or a SAPCR case, a Report of Divorce form, Notice of Child Support form, and Information on Child in Suit Affecting Parent-child Relationship form, as may be applicable, shall be filled out and presented to the Clerk.

- 4.2 **CHILD SUPPORT PAYMENTS** - All Child Support Orders shall include the statement that all support payments shall be made through the following office:

4.2.1 Final Decree: Texas Child Support Disbursement Unit
PO Box 659791
San Antonio, TX 78265-9791

4.2.2 Temporary Orders: Wharton County Child Support Office
PO Box 807
103 S Fulton Street
Wharton, Texas 77488

Unless permission from the Wharton County Child Support Deputy Clerk to pay

otherwise has been granted, all support payments shall be by Cashier's Check or Money Order and made payable to the custodial parent. In addition, the payment should include the District Clerk's case number.

- 4.3 **ANNUAL SERVICE FEE ON CHILD SUPPORT PAYMENTS** - All Divorce Decrees and Support Orders after contempt hearings involving child support shall contain the following paragraph:

"It is further ordered that _____, the person ordered to make payments for child support, shall pay a fee of \$36.00 annually to the Child Support Office of this Court, by a separate Cashier's Check or Money Order, and the first annual payment of this service fee is to be paid in addition to the amount of support, on same date of first support payment, and then \$36.00 payable annually on the same date of each year thereafter until child support is no longer required to be paid in this cause."

4.3.1 Child support payments are to be ordered withheld from the Obligor's earnings.

4.3.2 The name and address of the Obligor's employer must accompany the Order for Withholding from Income for child support.

- 4.4 **FINANCIAL INFORMATION STATEMENT** -

A Financial Information Statement approved by the court is to be completed and furnished to opposing counsel and the Court prior to any show cause hearing and/or hearing on the merits in domestic relations cases.

- 4.5 **PARENTING EDUCATION**

The adult parties to all divorce suits and suits involving minor children are to attend an approved parenting course, in person or online, prior to the granting of a final judgment.

RULE 5. GUARDIAN/ATTORNEY AD LITEM/AMICUS APPOINTMENT -

In a domestic relations case, any person/attorney to be appointed guardian/attorney ad litem/amicus attorney shall comply with Chapter 107 of the Texas Family Code.

RULE 6. 329th COURT CALENDAR-OPEN WEEKS -

- 6.1 **OPEN WEEKS** - The following weeks shall be reserved by the Courts:

- 6.1.1 The week of the annual State Bar Convention;
- 6.1.2 The week of the annual conference of the Judicial Section of the State Bar;
and
- 6.1.3 The last week in December.

RULE 7. 329th COURTROOM CONDUCT -

7.1 CONDUCT OF ATTORNEYS

The conduct of attorneys shall be prescribed by the Rules of Civil Procedure, the Texas Disciplinary Rules of Professional Conduct and the Texas Lawyer's Creed. No attorney shall remain seated while addressing the Court, upon the pain that his remarks or objections may not be heard by the Court. However, attorneys shall remain seated during examination and cross-examination of witnesses, unless it is necessary to stand to present exhibits to witnesses, etc. Only one attorney taking the lead in the trial of the case will examine witnesses for each party or parties unless permission is granted by the Court. All attorneys shall conduct themselves in a courteous manner, with respect shown to the Court, opposing attorneys, and witnesses.

7.2 CONDUCT REQUIRED OF ALL PERSONS IN THE 329TH DISTRICT COURT -

While the Court is in session, there shall be:

- 7.1.1 No cell phones except for attorneys and court staff. All calls must be placed or received outside of the courtroom.
- 7.1.2 No sleeveless shirts or shorts.
- 7.1.3 No shirts with ethnic, racial or sexual phrases.
- 7.1.4 No food.
- 7.1.5 No drinks brought into the Courtroom while the Court is in session or left in the Courtroom at any time, except attorneys may have water and coffee at counsel tables.
- 7.1.6 No disruptive children.
- 7.1.7 No communication with inmates
- 7.1.8 All headwear must be removed unless it is for religious purposes.
- 7.1.9 No chewing gum used by the witnesses while on the witness stand or by any attorneys while interrogating the witness or addressing the Court.
- 7.1.10 No noises or talking, which interferes with the Court proceedings.
- 7.1.11 No propping of feet on tables or chairs.
- 7.1.12 No photographs or recordings will be made in the Courtroom and no recording devices, cameras, or movie cameras will be brought into the Courtroom without first obtaining permission from the Court.

These rules will be enforced by the Bailiff.

- 7.3 The Court shall not be deemed in session for purposes of these rulings during any recess or while the Jury has retired for its deliberations.

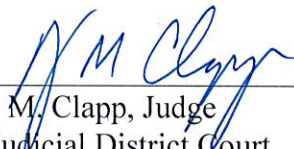
RULE 8. SPECIAL SETTINGS -

The Court reserves the power to make special settings not in accordance with these rules, subject to the provisions of Rule 245, of the Texas Rules of Civil Procedure. Except for such special settings, these rules shall apply.

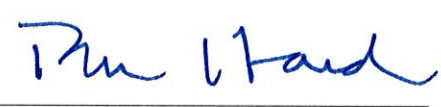
THE ELEVENTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS REGIONAL RULES OF ADMINISTRATION are adopted by reference.

Dated:

January 3, 2023



Randy M. Clapp, Judge
329th Judicial District Court



Ben Hardin, Judge
23rd Judicial District Court